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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,563	04/06/2001	Marion Calmer	P3098	6406

7590 03/03/2003

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EXAMINER	
MAMMEN, NATHAN SCOTT	
ART UNIT	PAPER NUMBER

3671

DATE MAILED: 03/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/827,563	CALMER, MARION
	Examiner Nathan S Mammen	Art Unit 3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 December 2002.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Disposition of Claims

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 4/6/01 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 4, 7, 11-15 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 sets forth a first, second, and third “conveyor system”. Claims 2, 4, 7, 11-15 all refer to a “conveying system”. There is insufficient antecedent basis for this limitation, and switching between “conveyor” and “conveying” renders the claims confusing and ambiguous.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8, 11, 13, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Rayfield (U.S. Patent 5,784,869).

The Rayfield ‘869 patent discloses an arrangement of a row crop harvester attachment with a mobile threshing unit. The arrangement comprises a row crop harvester (3) having a main frame attachment mounted to a mobile harvesting unit (1), a first conveyor system (12) in the row crop harvester including a power source connected to a plurality of row units (5) for

removing grain from the stalks and conveying the material including the grain up a first inclined plane to exits from the first conveyor system, and a second conveyor system (6) at right angles to the first conveyor system and including a power source. The second conveyor system conveys the material from the exits of the first conveyor system to an area at the center of the plurality of conveyor units for exit from the second conveyor system. The second conveyor system has two inclined plane surfaces (10 – concave shaped) between the entrance and the exit, with the surfaces being inclined equally and in opposite directions when the second system is perpendicular to the ground. An open area (11) is connected by an inclined plane between the exit of the second conveying system to the entrance of the mobile threshing unit. A third conveying system (4) includes a power source in the mobile threshing unit for retrieving material and delivering the material to the thresher mechanism.

Regarding claims 2-8, 11, 13, 14: The second conveying system comprises an auger with flighting (8, 9) and a trough (10) containing the auger. The auger flighting is reversed on opposite sides of the centerline (8, 9). The first and second conveyor systems are moved vertically and horizontally with respect to the third conveyor system by the pivoting of the row crop harvester about its mounting axis (Fig. 3, examiner's ref. A). The connection connecting the row crop harvester to the mobile threshing unit is moved laterally (examiner's ref. B). By this movement, the angle of the inclined planes and the distance between the second and third conveyor systems is reduced. The vertical and horizontal movements are by a spacer element (examiner's ref. C), which also acts as a filler plate. A feeder plate (examiner's ref. D – the end of the auger trough extending into the feederhouse) is attached to the second conveyor unit and bridges between the second conveyor unit and third conveying unit.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rayfield (U.S. Patent 5,784,869).

The Rayfield '869 patent discloses the claimed invention, as stated in paragraph 8 above, except for the shape of the spacer being rectangular or trapezoidal. It would have been an obvious matter of design choice to provide a rectangular or trapezoidal spacer, since Applicant has not disclosed that a rectangular or trapezoidal shape solves any stated problem and it appears the invention would perform equally well with the polygonal shape of spacer disclosed in the Rayfield '869 patent.

Allowable Subject Matter

7. Claims 12 and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed 12/13/02 have been fully considered but they are not persuasive.

Examiner's ref. C refers to the side plates which mounts the header to the feederhouse.

Such a plate necessarily exists, for it is that plate which includes the slots allowing the adjustment of the first and second conveyors relative to the third conveyor.

The first and second conveyors form part of the picker head. When the picker head is rotated about axis A, the first and second conveyors are moved in a horizontal and vertical direction. The movement being referred to is independent and not related to the rotational movement of the third conveyor system. The movement of the picker head is accomplished by rotating the picker head about axis A and sliding the side plate relative to the feederhouse.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

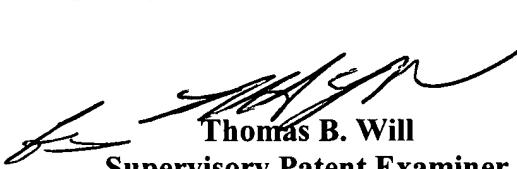
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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959.

The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 305-3579.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

NSM
2/25/03

Nathan S. Mammen